

b.) Remarks

Claims 6 and 15 have been amended in order to recite the present invention with the specificity required by statute. Additionally, Claims 12 and 18 are cancelled. Accordingly, claim 7 has been amended to maintain its dependency. The subject matter of the amendment may be found at specification page 29, lines 13-17. Accordingly, no new matter has been added.

Claims 12, 15, 17 and 18 are rejected under 35 U.S.C. 112, first paragraph, as failing to be described in such a way as to enable one of ordinary skill. In support of the rejection, the Examiner contends there is insufficient guidance “regarding the specific catalytic amino acids and the structural motifs essential for activity/function which must be preserved” to practice these claims without undue experimentation.

In response, although this rejection is respectfully traversed, solely in order to reduce the issues, claims 12 and 18 have been cancelled. As to claim 15, such has been amended to delete paragraph “(2)” also simply to reduce the issues. Accordingly, this rejection is mooted.

As to claim 17 (and indeed, claim 15), the rejection is not well-understood. While amino acids may be changed throughout the entire sequence, those of ordinary skill are plainly aware of predicted protein structures based on well-understood criteria of claim flexibility, surface probability antigenicity, secondary structure and hydrophobicity/hydrophilicity. It is a routine matter to run computer programs that ensure peptides with substituted amino acids have the same predicted protein structure. Accordingly, withdrawal of this rejection is respectfully requested.

Claim 17 is rejected under 35 U.S.C. 102(b) as being anticipated by Miyamoto et al. (Accession AAR63573). In support of this rejection, the Examiner contends the pending claims, which differs from Miyamoto by 115 amino acids, nevertheless reads on that reference because the claim recites that “up to a few” amino


acids may be different than SEQ 10 NO:1. This rejection is not well understood. The term "small" has been consistently held to be definite (Flexwood Co. v. Matt Faussner & Co., 64 USPQ 261; Ex parte Martinelk 159 USPQ 696; Ex parte Mosher, 136 USPQ 662). The difference between "small" and "few" is simply that the former deals with material and the latter with numbers; accordingly, the Examiner's basis of rejection is not well-founded in law. Additionally, "few" is plainly well-defined in every dictionary known and is certainly neither a term of this art, nor has it been redefined in the specification or used in some sort of contrary manner repugnant to its accepted meaning. Accordingly, the rejection is not well-founded on that basis, either. Withdrawal thereof is respectfully requested.

In view of the above amendments and remarks, Applicants submit that all of the Examiner's concerns are now overcome and the claims are now in allowable condition. Accordingly, reconsideration and allowance of this application is earnestly solicited.

Claims 4-8, 10, 11, 13-15 and 17 remain presented for continued prosecution.

Applicants' undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should continue to be directed to our below listed address.

Respectfully submitted,

  
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